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Private Law: Partnership

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PARTNERSHIP

Milton M. Harrison*

*Stone v. Stone*¹ is a very significant decision in the law of partnerships. The Louisiana supreme court, in reversing the decision of the court of appeal, interpreted two principles. First, a provision in partnership articles that the partnership will terminate at death of one of the partners does not mean that the partnership is for a term (until death), and terminable only for cause,² but rather is terminable at the will of any partner without cause.³ In addition, the court held that the right to terminate a non-term partnership at will is so fundamental that a provision in the agreement for disputes to be settled by arbitration does not apply to the right to dissolve.

The Fourth Circuit Court of Appeal, in *Obiol v. Industrial Outdoor Displays*,⁴ reiterated the position it had taken in *Bersuder v. New Orleans Public Service, Inc.*⁵ to the effect that a partner who is not also an employee of the partnership is not a "third person" within the contemplation of the workmen's compensation law. These cases, and the recent cases from other circuits,⁶ are incorrect and it is to be hoped that the Louisiana supreme court will grant writs and correct the erroneous application of partnership law in this area.⁷

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1. 281 So. 2d 177 (La. App. 4th Cir. 1973), *rev'd* 292 So. 2d 686 (La. 1974).

2. LA. CIV. CODE art. 2887.

3. *Id.* art. 2884.

4. 288 So. 2d 425 (La. App. 4th Cir. 1974).

5. 273 So. 2d 46 (La. App. 4th Cir. 1973).

6. *Leger v. Townsend*, 257 So. 2d 761 (La. App. 3d Cir. 1972), *writ refused*, 261 La. 464, 259 So. 2d 914 (1972); *Cockerham v. Consol. Underwriters*, 262 So. 2d 119 (La. App. 2d Cir. 1972), *writ refused*, 262 La. 315, 263 So. 2d 49 (1972).

7. For an excellent treatment of this problem, see Note, 34 LA. L. REV. 654 (1974).